

SUNNYSIDE ORCHARDS BLOCK 4, LOTS 14 & 15, AP (K & L DEVELOPMENT)
NINETEEN-LOT MAJOR SUBDIVISION

STAFF
REVIEW
COPY

STAFF REPORT FOR PLANNING BOARD

CASE PLANNER:

Benjamin H. Howell

BH

REVIEWED/

APPROVED BY:

Renee Van Hoven

W

PUBLIC HEARINGS/
MEETINGS:

RCPB Plat Evaluation:

March 15, 2006

RCPB Public Hearing:

April 5, 2006

Deadline for PB recommendation to BCC:

May 17, 2006

BCC Public Meeting:

9:00 a.m. May 2, 2006

Deadline for BCC action (60 working days):

June 8, 2006

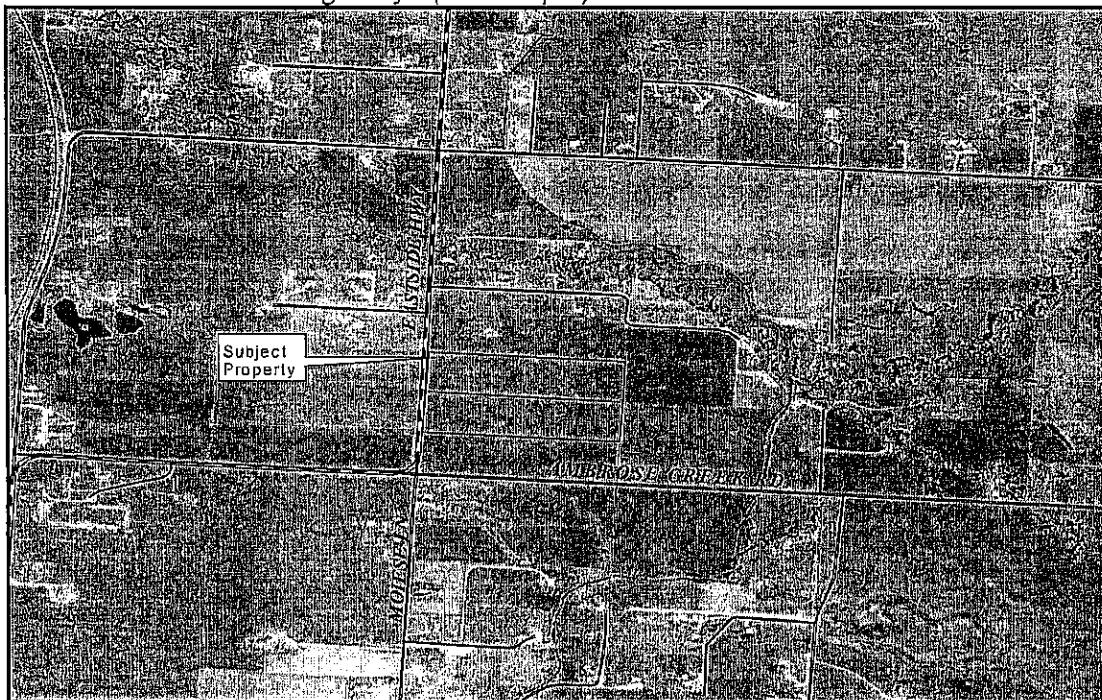
APPLICANT/OWNER:

K & L Development
1064 Weeping Willow
Corvallis, MT 59828

REPRESENTATIVE:

Bitterroot Engineering and Design, 961-5634
1180 Eastside Highway
Corvallis, MT 59828

LOCATION OF REQUEST: The property is located northeast of Stevensville off Eastside Highway. (See Map 1)



Map 1: Location Map

(Source Data: Ravalli County Planning Department)

LEGAL DESCRIPTION
OF PROPERTY:

Sunnyside Orchards Block 4, Lots 14 & 15, AP located in the SE¼ of Section 1, T9N, R20W, P.M.M., Ravalli County, Montana.

APPLICATION
INFORMATION:

The subdivision application was determined complete on February 28, 2006. Agencies were notified of the subdivision and comments received by the Planning Department not included in the application packet are Exhibits A-1 to A-7 of the staff report.

LEGAL NOTIFICATION:

A legal advertisement was published in the Ravalli Republic on Tuesday, February 28, 2006. Notice of the project was posted on the property and adjacent property owners were notified by certified mail. A public comment letter is included as Exhibit B.

DEVELOPMENT
PATTERN:

Subject property	Agriculture and vacant pasture
North	Large lot residential
South	Agriculture
East	Residential
West	Residential

RAVALLI COUNTY PLANNING BOARD

APRIL 5, 2006

SUNNYSIDE ORCHARDS BLOCK 4, LOTS 14 & 15, AP
NINETEEN-LOT MAJOR SUBDIVISION

RECOMMENDED MOTION

That the Sunnyside Orchards Block 4, Lots 14 & 15, AP Major Subdivision be ***approved***, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE SUBDIVISION

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (Effects on Agriculture)

Notification of Irrigation Ditch/Pipeline Easements. Within this subdivision there are irrigation easements. All downstream water right holders have the right to maintain and repair their ditches/pipelines and diversion structures whenever necessary to keep them in good condition. The filed subdivision plat shows irrigation ditches and easements on the property. The downstream water rights holders must approve any relocation or alteration (i.e. installation of a culvert) of an irrigation ditch or pipeline. Any act which damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance is expressly prohibited. The downstream water right holders have the right to use the easement to maintain the ditch or pipeline. (Effects on Agricultural Water User Facilities)

Lots within this subdivision do not currently have the right to take irrigation water out of the ditch or buried irrigation pipeline located within the subdivision. Taking water without a water right for irrigation purposes is illegal. (Effects on Agricultural Water User Facilities)

Limitation of Access onto a State Road. A "no ingress/egress" restriction is located along the Eastside Highway frontage of the subdivision, which precludes vehicular access onto this State-maintained road, excepting the approved approach for the internal subdivision road. This limitation of access may be lifted or amended with approval of the MDT. (Effects on Local Services)

Notification of Road Maintenance Agreement. Ravalli County, the State of Montana, or any other governmental entity does not maintain the internal subdivision road and therefore does not assume any liability for improper maintenance or the lack thereof. A Road Maintenance Agreement for this road was filed with this subdivision and outlines what parties are responsible for maintenance and under what conditions. (Effects on Local Services)

Notification of Severe Soils. Within this subdivision there are areas of the property identified as potentially having soils rated as severe for roads and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat and descriptions of the severe soils are included as exhibits to this document. (The applicant shall include the exhibits as attachments) (Effects on Public Health and Safety)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Living with Wildlife. (See Exhibit A-1 for required provisions.) (Effects on Agriculture, Natural Environment, Wildlife and Wildlife Habitat, and Public Health and Safety)

Waiver of Protest to Creation of RSID/SID. Owners and their successors in interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to creating and/or improving a community water or wastewater treatment system and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. (Effects on Local Services)

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Three Mile Fire District has adopted the Uniform Fire Code (UFC), which requires lot owners to post County-issued addresses at the intersection of the driveway leading to the primary residence and the accessing road as soon as construction on the residence begins. (Effects on Public Health and Safety)

Access Requirements for Lots within this Subdivision. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 20', a vertical clearance of 13'6", and an all weather surface that can accommodate the weight of a fire truck to meet requirements of the UFC. Please contact the Three Mile Rural Fire District for further information on the requirements of the Three Mile Rural Fire District and/or the UFC. (Effects on Local Services)

Primary Heat Source. The primary heat source for the newly constructed residences in this subdivision shall be at least 75% efficient. (Effects on Natural Environment)

Lighting for New Construction. Full cut-off lighting shall be required for any new construction within this subdivision. A full cut-off fixture means fixtures, as installed, that are designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light emitted. The source of light is fully shielded, top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. Spotlighting of flag poles shall be permitted. (Effects on Public Health & Safety)

Control of Noxious Weeds. Lot owners shall control the growth of noxious weeds on their respective lot(s). (Effects on Natural Environment)

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. (Effects on Public Health and Safety)

Amendment. The covenants filed with the final plat shall state that written Governing Body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. (Effects on all six criteria)

3. The subdivider shall include an RSID/SID waiver in a notarized document filed with the subdivision plat that states the following: Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners and any successors in interest to any future RSID/SID, based on benefit, for a community wastewater system, community water system, or upgrading roads leading to or within the subdivision, including but not limited to paving, curbs and gutters, non-motorized transportation facilities, street widening, and drainage facilities. (Effects on Local Services)
4. A conditional public road and utility easement shall be shown on the final plat along the common boundary of Lots 14-10 and 15-9 from the end of the internal subdivision road's cul-de-sac to the eastern property. The easement shall be labeled as a conditional public road and utility easement on the final plat. The following statement shall be on the final plat: "Development of the road to meet County Standards within this easement shall be the responsibility of the property owner(s) to the east. Furthermore, when this easement is developed and opened to the property(ies) to the east, those properties that have beneficial use of the easement shall be annexed into the road maintenance agreement for the internal subdivision road." (Effects on Local Services)
5. The internal subdivision road shall be labeled as a privately-maintained road within a public road and utility easement on the final plat. (Effects on Local Services)
6. The applicant shall install a stop sign and road name sign on the internal subdivision road at the intersection with Eastside Highway, reviewed by the Road and Bridge Department, and approved by the Planning Department prior to final plat approval. (Effects on Local Services and Public Health and Safety)
7. The final plat shall show a no ingress/egress zone along the Eastside Highway frontage of the subdivision, excepting the approved approach for the internal subdivision road. (Effects on Local Services and Variance)
8. The Road Maintenance Agreement for the internal subdivision road shall include the maintenance of storm water drainage facilities. It shall also state that the other parcels which may have beneficial use of the internal subdivision road shall be allowed to join as members of the agreement without the consent of the current members. (Effects on Local Services)
9. The applicant shall meet the water supply requirements for the Three Mile Fire District, which is a 1,000-gallon per minute water supply or a 2,500 gallon per lot water storage. Alternatively, the applicant can contribute \$500 per lot and provide a letter from the Three Mile Fire District that the contribution has been made prior to final plat approval. (Effects on Local Services & Public Health and Safety)
10. The applicant shall provide evidence that \$250 per lot has been contributed to the Stevensville School District prior to final plat approval. (Effects on Local Services)
11. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Effects on Public Health and Safety)

12. The existing irrigation easement shall be shown on the final plat as shown on the preliminary plat. (Effects on Agricultural Water User Facilities)

INTRODUCTION

The Sunnyside Orchards Block 4, Lots 14 & 15, AP Major Subdivision is a nineteen-lot subdivision of 19.99 acres located northeast of Stevensville. There are no existing structures on the property, and the proposed subdivision is located approximately 5 miles north east of Stevensville. The property is level, and has been used for agriculture in the past.

Staff recommends conditional approval of the subdivision proposal.

SUBDIVISION REPORT

COMPLIANCE WITH PRIMARY SUBDIVISION REVIEW CRITERIA

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The proposed major subdivision on 19.99 acres will result in nineteen lots that range in size from 1.00 to 1.99 acres. The property is located approximately five miles northeast of the Town of Stevensville.
2. The property is located in an area where there is a mix of agricultural and residential uses. To mitigate impacts on nearby agricultural practices, a notification of agricultural operations shall be filed with the final plat. (Condition 1)
3. There are nine proposed subdivisions within one mile of the subject property. However, many of the adjacent orchard tracts have not been developed.
4. There are soils classified as Prime Farmland covering approximately 90% of the property.
5. The property has been used for agriculture in the past.

Conclusions of Law:

1. The creation of these lots will take soils classified as Prime Farmland out of production and will decrease private open land available for agriculture.
2. With the recommended mitigating condition, impacts of this subdivision on surrounding agricultural practices will be reduced.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact:

1. There are no water rights associated with this property.
2. There is an existing irrigation ditch bordering the eastern boundary of the proposed subdivision.
3. There is an existing 10-foot wide easement for the irrigation ditch as shown on the preliminary plat. To mitigate impacts on agriculture water user facilities, the applicant shall show the irrigation easement on the final plat. (Condition 12)
4. To notify future property owners and mitigate potential impacts on agricultural water user facilities, a notification of the irrigation ditch and easement shall be filed with the final plat. Notification shall also be included that owners of the lots do not have the right to take water from the ditch. (Condition 1)

Conclusion of Law:

Impacts to agricultural water user facilities will be minimized through the mitigating conditions.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

1. Eastside Highway is a State-maintained highway that provides access to the subdivision.
2. An approach permit from MDT is required prior to final plat approval for the internal subdivision road. To mitigate impacts on local services and restrict access on Eastside Highway, a no-ingress/egress zone along the Eastside Highway frontage of the subdivision, excepting the approved approach for the internal road shall be on the final plat and a notification of the limitation of access shall be filed with the final plat. To further mitigate impacts to local services, the applicant shall provide an approved approach permit from MDT. (Conditions 1&7)
3. All lots are proposed to be served by an internal road, which is proposed to meet minor local road standards. In a memo dated December 27, 2005, Ron Uemura, the County's Professional Engineering Advisor, commented on the road plans. (*Exhibit A-2*)

4. A General Discharge Permit for Stormwater Associated with Construction Activity from the Montana Department of Environmental Quality (if required), submittal of final grading and drainage plans, an approved road name petition for the internal subdivision road, and a road certification, as certified by a professional engineer, are requirements of final plat approval. Installation of all infrastructure improvements is also required to be completed prior to final plat approval, which includes construction of the road and stormwater drainage facilities for the internal subdivision road.
5. In order to ensure that the public has usage of the road within this subdivision, the internal subdivision road shall be dedicated as a public road and utility easement on the final plat. (Condition 5)
6. There is a possibility that the property to the east will be developed in the future and Section 5-4-4(d) of the Ravalli County Subdivision Regulations recommends roads are planned for connectivity to future development. To mitigate impacts on local services, the applicant shall provide for a conditional public road and utility easement connecting the proposed cul-de-sac to the property to the east. Future property owners of the property to the east will be able to utilize the easement if they develop the road within the conditional easement to meet County Standards and join the Road Maintenance Agreement for the internal road of Sunnyside Orchards Block 4, Lots 14 and 15, AP. (Condition 4) To avoid duplication of road maintenance between the two groups of property owners and to further mitigate impacts on local services, the Road Maintenance Agreement filed with the final plat shall allow for other properties that have beneficial use of the internal subdivision road to be included as parties to this agreement without the consent of the property owners within Sunnyside Orchards Block 4, Lots 14 and 15, AP. (Condition 8)
7. A Road Maintenance Agreement was proposed for the internal subdivision road and is required to be submitted with the final plat application. A notification of the Road Maintenance Agreement shall be included in the Notifications Document, and the Road Maintenance Agreement shall include stormwater drainage. (Conditions 1 & 8)
8. To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, an RSID/SID waiver filed with the final plat shall address these services/facilities. (Conditions 2 and 3)
9. Individual wells and wastewater treatment systems are proposed for lots within this subdivision.
10. Bitterroot Disposal provides service to this site.
11. The subdivision questionnaire indicates the parkland dedication for this subdivision is required to be 1.45 acres and cash-in-lieu of parkland dedication is proposed. The Department of Revenue indicated the unimproved and unsubdivided value of the property is \$4,361.00 per acre, which results in a cash donation of \$6,323.45 (*Exhibit A-7*). Cash-in-lieu of parkland dedication shall be paid as a requirement of final plat approval.
12. In a letter dated March 9, 2006, the Stevensville School District stated that they can accommodate the new students, but will not travel on privately-maintained roads. The School District further stated that the financial impacts to the District per student are \$4800 per elementary student and \$5200 per high school student. The developer is proposing to contribute \$250 per lot to the Stevensville School District. A condition that the developer provides evidence of this contribution to the School District is required prior to final plat approval. (*Exhibit A-3*) (Condition 10)
13. The Three Mile Rural Fire District has provided the County with their general policy recommendations (*Exhibit A-4*). The conditions that address the Fire District's recommendations will mitigate impacts on local services and public health and safety. (Conditions 2 & 9)
14. The Ravalli County Sheriff's Office provides law enforcement services to this area.
15. Public Services are adequate for this subdivision.

Conclusion of Law:

With the conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be mitigated.

CRITERION 4: EFFECTS ON THE NATURAL ENVIRONMENT

Findings of Fact:

1. The property is located approximately 700 feet southwest of Three Mile Creek, which drains an area of 15 square miles or more. The property is separated from Three Mile Creek by approximately six to eight vertical feet and Fawn Lane, so a floodplain analysis waiver was granted by the Ravalli County Floodplain Administrator. (Application)
2. Individual wells and wastewater treatment systems are proposed to serve lots within the subdivision and adequate information has been provided to the Environmental Health Department for local subdivision review to occur. A Certificate of Subdivision Plat Approval from Montana DEQ is required to be submitted with the final plat. (*Exhibit A-5*)
3. To mitigate air pollution resulting from home heating emissions, the protective covenants filed with the final plat shall state that the primary heat source for any newly constructed residences must be at least 75% efficient. (Condition 2)
4. A noxious weed and vegetation control plan is required to be filed with the final plat for ground disturbance associated with a subdivision. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district, shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, *such as* road construction, the plan shall be submitted to the weed board for approval from the board. To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)

Conclusion of Law:

With the conditions and the requirements of final plat approval, impacts from this subdivision on the natural environment will be mitigated.

CRITERION 5: EFFECTS ON WILDLIFE AND WILDLIFE HABITAT

Findings of Fact:

1. The property is not located within the FWP-identified big game winter range.
2. The property was identified as an area with Sensitive Species (Bald Eagle and Shining Flatsedge), but because the property is relatively flat, has no nesting trees, and is separated from the Bitterroot River by the Eastside Highway, the applicants requested and received a waiver from a Sensitive Species Report. (*Exhibit A-6*)
3. The property is located ½ mile east of the Lee Metcalf Wildlife Refuge. Montana FWP did not submit comments specific to this subdivision, but recommended living with wildlife covenants that were used for a subdivision located in the vicinity. (*Exhibit A-1*) (Condition 2)

Conclusion of Law:

With the condition of approval, impacts of the proposed subdivision on wildlife will be mitigated.

CRITERION 6: EFFECTS ON PUBLIC HEALTH AND SAFETY

Findings of Fact:

1. The property is located approximately 700 feet southwest of Three Mile Creek, which drains an area of 15 square miles or more. The property is separated from Three Mile Creek by approximately six to eight vertical feet and Fawn Lane, so a floodplain analysis waiver was granted by the Ravalli County Floodplain Administrator. (Application)

2. The preliminary plat and soils map indicate that portions of this subdivision may have soils rated as severe for building and road construction. To educate property owners and to mitigate potential impacts of this subdivision on public health and safety, a notification of the potential for severe soils shall be included in the Notifications Document filed with the final plat. (Condition 1)
3. To mitigate impacts on public health and safety, the subdivider shall apply for County-issued addresses for each lot and a provision requiring property owners to post County-issued addresses at their driveways shall be included in the covenants. (Conditions 2 and 11)
4. The condition that addresses the Rural Fire District's usual recommendation will mitigate impacts on public health and safety. (Condition 9)
5. With the conditions and requirements of final plat approval, access to the subdivision will be adequate for public health and safety. (Conditions 1, 2, 3, 4, 5, 7, and 8) (Local Services)
6. To mitigate impacts on public health and safety, the applicant shall install the road name and stop signs at the intersection of the internal subdivision road and Eastside Highway prior to final plat approval. (Condition 6)
7. Individual wells and septic systems are proposed for lots within this subdivision. (Natural Environment)
8. To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision requiring full cut-off lighting with the exception of flag poles. (Condition 2)
9. There is a prevalence of radon in the County and to mitigate impacts on public health and safety, the covenants shall include a statement regarding radon exposure. (Condition 2)

Conclusion of Law:

The mitigating conditions and requirements of final plat approval address potential impacts of this subdivision on public health and safety.

COMPLIANCE WITH:

1) THE SURVEY REQUIREMENTS PROVIDED FOR IN PART 4 OF M.C.A. 76-3.

Finding of Fact:

The Seal of a Professional Land Surveyor or Engineer is required on all final plats, which states that the subdivision complies with part 4 of M.C.A. 76-3.

Conclusion of Law:

This proposal meets the survey requirements or conditions have been required to bring the proposal into compliance.

2) THE LOCAL SUBDIVISION REGULATIONS PROVIDED FOR IN PART 5 OF M.C.A. 76-3.

Finding of Fact:

Subdivisions are required to comply with the local subdivision regulations provided for in part 5 of M.C.A. 76-3.

Conclusion of Law:

The developer has submitted a plan which complies with the requirements of local subdivision regulations or conditions have been required that will bring the plan into compliance.

3) THE LOCAL SUBDIVISION REVIEW PROCEDURE PROVIDED FOR IN THE RAVALLI COUNTY SUBDIVISION REGULATIONS

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision review procedure provided for in the Ravalli County Subdivision Regulations.
2. A decision of the governing body rejecting or approving a proposed subdivision may be appealed to the district court within thirty (30) days of such decision. The petition shall specify the grounds upon which the appeal is made. An appeal may be made by the subdivider; a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the unincorporated area of the county that can show a likelihood of material injury to the landowner's property or its value; a first class municipality if the subdivision is within three miles of its limits, a second class municipality if a subdivision is within two miles of its limits, a third class municipality or town if the subdivision is within one mile of its limits. An aggrieved party means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.

Conclusion of Law:

This development plan proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations.

CONSISTENCY WITH EXISTING ZONING AND COVENANTS

Findings of Fact:

1. The application states the property is not located within a zoning district.
2. There are existing covenants on the property. (Application) The proposal appears to be consistent with the covenants.

Conclusion of Law:

Zoning does not apply to this property and the proposal is in compliance with the covenants.

PROVISION OF EASEMENTS FOR UTILITIES

Findings of Fact:

1. The plat indicates existing utility easements are located along Eastside Highway and proposed utilities along the internal road. Utility easements are required to be shown on the final plat.
2. According to the application, the proposed subdivision will be served by Northwestern Energy and Qwest Telephone. Utility Certificates are required for final plat approval.

Conclusion of Law:

Utility services are available to the subdivision.

PROVISION OF LEGAL AND PHYSICAL ACCESS

Finding of Fact:

Access to this subdivision is proposed via Eastside Highway, which is a State-maintained highway, and the internal subdivision road. (Local Services)

Conclusion of Law:

With the conditions of approval and requirements of final plat approval, the proposal meets physical and legal access requirements.



EXHIBIT A-1

Montana Fish, Wildlife & Parks

Region 2 Office
3201 Spurgin Road
Missoula, MT 59804-3099
Phone 406-542-5500
March 6, 2006

John Horat
Bitterroot Engineering & Design, Inc.
1180 Eastside Hwy.
Corvallis, MT 59828

Dear Mr. Horat:

Reference: Sunnyside Orchards, Lots 14 & 15 (Blk 9; Cummings)--Proposed
major (19 lots on 20 acres) NNE of Stevensville

We have reviewed the preliminary amended plat for this subdivision, and we offer the following.

This proposed subdivision is located about one-half mile east of the Lee Metcalf National Wildlife Refuge and its extensive wetlands, sloughs and riparian areas associated with the Bitterroot River. Threemile Creek and its associated riparian area is less than one-sixth mile north and northeast, and agricultural fields are nearby. Riparian areas are regularly used by wildlife species as seasonal or year-round habitat, as well as functioning as an important corridor for wildlife movement up and down the river and streams. In particular, wildlife such as white-tailed deer, fox and skunk are found in this area, as well as an occasional black bear and possible mountain lion. Numerous small mammal and bird species (including waterfowl and birds of prey) can be found nearby, as well as nesting birds.

1. We believe there is an elevated probability of human/wildlife conflicts at this location, and we recommend inclusion of a "living with wildlife" covenants (enclosed) for this subdivision. Strict adherence to the guidelines in the covenants should help homeowners avoid conflicts with wildlife.
2. Due to the proximity of this proposed subdivision to the Lee Metcalf Refuge and the Bitterroot River and its sloughs, there is a possibility of conflict between waterfowl hunters and the subdivision, where the lawful discharge of shotguns may create some concern by the residents. Waterfowl hunting occurs from early

morning until sunset, and the season can run from September into January. We have included item k in the enclosed covenants to address this issue.

Thank you for providing the opportunity for MFWP to comment on this subdivision. Please contact Sharon Rose at our office (542-5540; shrose@mt.gov) if you would like an electronic version of these comments and covenants.

Sincerely,

Mack Long
Regional Supervisor

ML/sr

C: Ravalli County Planning Department, Attn: Renee Van Hoven, 215 S. 4 St. F, Hamilton, MT 59840

Section __: Living with Wildlife

Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, moose, bear, mountain lion, coyote, fox, skunk and raccoon. Contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see the Education portion of FWP's web site at www.fwp.mt.gov.

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. There is high potential for **vegetation damage by wildlife, particularly from deer** feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners must be aware of this potential damage. They should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Homeowners should consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to provide supplemental feed attractants if it results in a "concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.
- c. **Garbage** should be stored in secure animal-resistant containers, in closed sheds or indoors to avoid attracting animals such as bears, raccoons, dogs, etc. It is best not to set garbage cans out until the morning of garbage pickup.
- d. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the direct control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. And in turn, keeping pets confined helps protect them from being preyed upon by wildlife. Under current state law it is illegal for dogs to chase hooved game animals and the owner may also be held guilty (MCA 87-3-124).

- e. **Pet food (and livestock feed)** must be stored indoors, in enclosed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bear, mountain lion, skunk, raccoon, etc. **When feeding pets (and/or livestock)** do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- f. **Barbecue grills** should be stored indoors. Keep all portions of the barbecues clean. Food spills and smells on the grill, lid, etc. can attract bears and other wildlife.
- g. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence.
- h. **Gardens**, fruit trees or orchards can attract wildlife such as bear and deer. Keep the produce and ripe fruit picked because ripe or rotting vegetable material can attract bears and skunks. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. Netting over gardens can help deter birds from eating berries.
- i. **Bird feeders** attract bears, especially from April 1st through the end of November. If used, bird feeders should: a) be suspended a minimum of 20 feet above ground level, b) be at least 4 feet from any support poles or points, and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- j. **Compost piles** can attract skunks and bears. If used they should be kept indoors or built to be wildlife-resistant.
- k. Purchasers of lots within this subdivision must recognize that the subdivision is located near the Lee Metcalf National Wildlife Refuge and natural sloughs associated with the Bitterroot River, where lawful waterfowl hunting and the associated **discharge of shotguns** could occur from early morning until sunset, and the season can run from September into January.

EXHIBIT A-2

MAR 28 2006

10-06-03-474
Ravalli County Planning Dept.**RAM Engineering**

Site Planning - Civil Engineering Design
Feasibility Studies - Project Management
PO Box 2130, Hamilton, MT 59840

Ph. (406) 360-4238
Fax (406) 363-1880
Email: RAMEngineer@hotmail.com

Fax**To:** Tristan Riddell, Planner**From:** Ron Uemura, PE**Fax:** 375-6336**Pages:** 1**Phone:** 375-6229**Date:** 12/27/2005**Re:** AP Lots 14 & 15, Sunnyside**CC:**

Orchards Block #4 - 1st Review

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

• Comments:

- It is assumed that the applicant will need to secure an approach permit from the State Department of Transportation (DOT) for the proposed roadway connection to the Eastside Highway. Evidence of DOT's approval should be a requirement.
- Although not indicated on the drawings, it is assumed that there is an existing roadside ditch on the eastern edge of the Eastside Highway. If not, a ditch should be designed to intercept the overland storm water runoff from the proposed lots to the highway.
- The consultant has computed the additional runoff from the lots as being directed to the new roadside swales. Because the existing ground slopes in a westerly direction, the consultant needs to show swales within each lot to direct the stormwater to the roadside swales.
- The roadside swales should also be checked to make sure that it can handle the stormwater runoff from the lots.
- It is also assumed that the DOT may require a culvert be installed at the intersection.
- A "STOP" sign is recommended to be installed at the new intersection, together with the Street Name Sign.

EXHIBIT A-3

Benjamin Howell
Ravalli County Planning Dept.
215 South 4th Street, Suite F
Hamilton, Montana 59840

March 9th, 2006

RECEIVED
MAR 10 2006
IC-06-03-378
Ravalli County Planning Dept.

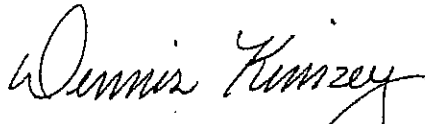
Mr. Howell:

Our Stevensville Public School District would like to comment on the recent information you sent concerning Sunnyside Orchards and the proposed 19 lot, 19.99 acre subdivision, and the 4 lot, 10 acre proposal.

The school district will accommodate whatever number of students the proposals generate. However, please keep in mind our district policy is to NOT travel on roads that are NOT maintained by the Ravalli County/State of Montana Road Depts. And further, the financial impact to our schools is \$4800. per elementary student and \$5200. per high school student.

Thank you for the opportunity to reply.

Sincerely yours,



Dennis Kimzey, Supt.
Stevensville Public Schools

Dennis Kimzey, Supt.
Stevensville Public Schools
300 Park Street
Stevensville, MT 59870

Office: 1(406) 777-5481 ext. 138
Home: 1(406) 777-0628

EXHIBIT A-4

JUN 16 2004

THREE MILE FIRE DISTRICT
1004 THREE MILE CRL RD.
STEVENSVILLE, MT 59870
ATTN: CHIEF GIESE

June 16, 2004

IC C4 CE 934

FLAVALLI COUNTY PLANNING OFFICE
215 4th Street, Suite F
HAMILTON, MT 59840

The Three Mile Fire District has established the following requirements for new proposed subdivisions within this district. The requirements were established with consideration for life safety of the residence of the district as well as the Volunteers who are called upon to protect the district and to mitigate harm to the public health and environment.

When establishing the requirements, emphasis was given to the Uniform Fire Code, Articles 9 and 10, and Appendix III-A, The Flavalli County Subdivision Regulations, The Flavalli County Road Department standards and the 1995 Fire Protection Guidelines for Wildland Residential Interface Development. These Publications and Articles establish rules for dealing with fire apparatus access roads, fire department access to buildings, water supplies for fire protection, installation and maintenance of fire-protection systems and clearance of brush and vegetative growth from roadways.

Consideration was also given to Section 23.7.105 Administrative Rules of Montana, which is adopted pursuant to authority of 50-3-102 (2) and 50-3-103, MCA, which incorporates by reference the UFC (Uniform Fire Code) and establishes a minimum fire prevention code for Montana.

Every effort has been made to use words and phrases consistent with the definitions given them in the above mentioned publications.

The Fire Department requires that all roads and bridges meet or exceed and are maintained to the requirements of the Uniform Fire Code (UFC) section 902, which reads in part:

902.2.1 Required access. Fire apparatus roads shall be provided in accordance with Sections 901 and 902.2 for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction when any portion of the facility or any portion of an exterior wall of the first story of the building is located more than 150 feet (45720 mm) from fire apparatus access as measured by an approved route around the exterior of the building or facility....

EXCEPTIONS: 1. When buildings are completely protected with an approved automatic sprinkler system, the provisions of Sections 902.2.1 and 902.2.2 may be modified by the chief.

902.2.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096mm) and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115mm)....

902.2.2.2 Surface. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface so as to provide all-weather driving capabilities.

902.2.2.6 Grade. The gradient for a fire apparatus access road shall not exceed the maximum approved by the chief. { The chief accepts the Resolution approved by the Board of County Commissioner of Ravalli County. The Resolution sets the maximum acceptable road grade for acceptance for a road by the County for dedication and maintenance at six percent (6%). }

While not all parts of the UFC section 902 are listed above, it is the responsibility of the Subdivision developer to construct and maintain all fire apparatus access roads to comply with all aspects of the UFC and Ravalli County Standards.

The fire district requires that all lots (premises) meet the requirements of UFC 901.4.4 as soon as construction begins with a temporary or permanent address posted at the premises driveway and upon occupancy with a permanent address posted in accordance with the above UFC.

WATER SUPPLY REQUIREMENTS:

The water supply required by the Uniform Fire Code for one and two family dwellings, not exceeding 3600 square feet, requires a flow rate of 1000 G.P.M. The code does not specify the duration of flow for one and two family dwellings, however the Fire Protection Guild lines for Wildland Residential Interface Development and the Plavalk County Subdivision Regulations list the minimum water supply of 2500 gallons per lot.

The Three Mile Fire District currently has an ISO Class 6 Residential rating which requires a water flow of 200 gallons per minute for a duration of 20 minutes or a total flow of 4000 gallons per residence.

Considering the above information the Fire District will accept a water supply of 1000 gallons per minute or 2500 gallons per lot of stored water. The water supply installation, upkeep and maintenance will be the responsibility of the Subdivision.

The Fire District realizes the financial burden of installing and maintaining a water supply and or storage tanks capable of providing the required water flows and is willing to accept a payment of \$ 500.00 (Five Hundred dollars and no/100) per lot, in lieu of the water supply required by the UFC. The Fire District will then upon its elective purchase fire fighting apparatus or develop water supplies.

EXCEPTIONS: 1. When buildings are completely protected with an approved automatic sprinkler system, the above listed water supply and payment schedule may be reduced by 50%. The Subdivision Covenants must state that 2. All residences constructed within the subdivision be completely protected with an approved automatic sprinkler system .@ Payment for the reduced amount of \$ 250.00 per lot will be accepted at the time the Subdivision is approved. If at any time any residence is built without an approved sprinkler system within the subdivision, all lots will be subject to an additional \$ 250.00 dollar payment, regardless whether they have sprinklered residences located on them or not.

If you have any questions regarding the above listed requirements, please feel free to contact me at (406) 777-2749. I am willing to meet with you on your proposed site to review the above requirements or discuss life safety issues.

Sincerely,

Russel R. Giese
Three Mile Fire District Chief

EXHIBIT A-5

DEC 13 2005

Ravalli County Planning Dept.

IC-05-12-2209



Environmental Health
215 South 4th – Suite D
Hamilton, MT 59840
(406)375-6268 FAX (406)375-2048

MEMORANDUM

TO: Ravalli County Planning Department

FROM: Morgan T. Farrell, R.S., Environmental Health

DATE: 12-13-05

RE: SUNNYSIDE ORCHARDS, BLOCK 4, LOTS 14-15 AP
(ED CUMMINGS) - DR ENGINEERING

The Ravalli County Environmental Health Department has received the above-referenced proposal for review. Based on the information provided, the application appears to be sufficient for subdivision review. The Sanitation in Subdivision review will be completed in accordance with the contract with the Department of Environmental Quality. Additional questions or comments may be required based upon the continued review of this file and the content of future submittals.

EXHIBIT A-6

Bitterroot Engineering & Design, Inc.

1180 Eastside Hwy. Corvallis, MT 59828
(406) 961-5634 FAX (406) 961-5654

To: Patrick O'Herrin
From: John Horat, PE
Subject: Proposed AP Lots 14 & 15, Block 4, Sunnyside Orchards, Stevensville, MT.
Date: 8/1/05

Patrick,

This letter is a request from the requirement to prepare a sensitive species report for the bald eagle.

Based on a conversation with John Voohre (sp?), Montana Fish, Wildlife and Parks, the nearest eagles nest is 1 1/4 miles away.

The subject property does not contain any trees which would support nesting grounds for the bald eagle.

Please let us know if you concur with this waiver or need additional information to satisfy this request.

Thank you.

2/22/06
ok per
email from
Lee Metcalf
Refuge
as long as
Christa Dubois
@ [unclear]
is not fed
as an agency
West

CARMONA CONSULTING
1582 Willow Creek Road
Corvallis, MT 59828
(406) 961-6913

2/12/06

Mr. John Horat
Bitterroot Engineering & Design
1180 Eastside Hwy
Corvallis, MT 29828

RE: The Preliminary Plat of Amended Lots 14 – 15, Block 4, Sunnyside
Orchards, A Platted Subdivision of Ravalli County, Montana.
SUB: Sensitive Species Report for Shining Flatsedge (*Cyperus rivularis*).

Mr. Horat.

Per your request, I have researched *Cyperus rivularis* (Shining Flatsedge) designated as a sensitive species in the 1995 MT Natural Heritage Report. I then visited, and performed a qualitative vegetation survey of the referenced proposed subdivision.

The site is on the corner of Eastside Hwy and Ambrose Creek Road East of Stevensville, MT. The area of the proposed subdivision does not show any signs of standing water, it appears this is ~~flood~~ irrigated pasture with no evidence of *Cyperus rivularis* (Shining Flatsedge) found within 300 feet of the proposed subdivision at the time of our visit 2/12/06.

Please do not hesitate to contact me for further assistance.

Sincerely, *Eusebio Carmona*

Eusebio Carmona, Plant Ecologist.

*OK per Krest
2/22/06*



EXHIBIT A-7

JAN 20 2006
1C-06-01-102
Ravalli County Planning Dept.

PLANNING DEPARTMENT
215 S 4TH ST
HAMILTON, MT 59840
406.375.6530: 406.375.6531

MEMORANDUM
OG-06-01-14

To: Debbie Reesman, Department of Revenue
From: Tristan Riddell, Ravalli County Planning Department *TR*
Date: January 5, 2006
Subject: Tax Information Request

Information Requested By: January 26, 2006

Subdivision Name: Sunnyside Orchards, Block 4, Lots 14 & 15 AP

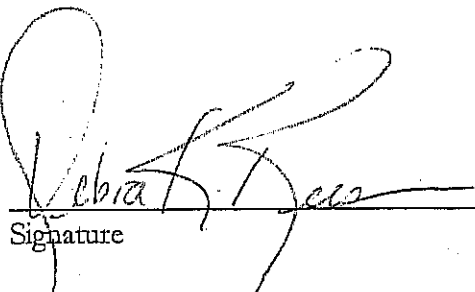
Parcel Number(s): 443400

Geocode Number(s): 1764-01-401-04-0000

Number of Lots: 19 on 19.99 acres

Cash-in-Lieu: \$ 4361⁰⁰ per unsubdivided and unimproved acre

Comments: Fair Market Value of one Acre = $\$4861^{00} \times 1.45 = \6323^{45}
Based on Park Dedication / Donation Worksheet.


Signature

1/20/06
Date

EXHIBIT B

March 19, 2006

In regards to: Sunnyside Orchards Block 4, Lots 14 & 15, AP (K & L Development)

Benjamin H. Howell
Planning Department
215 South 4th Street, Suite F
Hamilton, MT 59840
bhowell@ravallicounty.mt.gov
375-6530

Dear Benjamin H. Howell,

As neighbors currently living just north of the referenced proposed development, we have some concerns with it moving forward as planned. We will address those concerns using the decision criteria outlined in your letter (February 27, 2006) to adjoining property owners.

1 – Effects on Agriculture

This property was recently used as hay ground as are most of the plots surrounding it. Loss of agricultural land in our valley increases our dependence upon imported hay and other agricultural products. This increases our dependence upon oil, adds cost to the imported product, eliminates local business based on renewable natural resources, and essentially removes forever the potential to bring that land back into agricultural production. This would be a relatively small impact until you consider the cumulative effects of all the subdivision development planned in our county.

2 – Effects on Agricultural Water-User Facilities

The planned development is adjacent to irrigation ditches and pipes that were used in the recent past to irrigate the hay fields that the development would replace. Loss of this infrastructure would make it difficult to ever reclaim this land as irrigated agricultural land.

3 – Effects on Local Services

Nineteen new homes and families will increase the attendant needs for increased social and safety services and schools. The increasingly busy Eastside Highway would have additional traffic and maintenance needs.

4 – Effects on Natural Environment

Nineteen new homes, each with their own well and septic system on nearly 20 acres, will have a profound local effect on hydrology and water quality that could affect nearby properties and wells and the nearby Lee Metcalf National Wildlife Refuge. The loss of permeable soils to homes, driveways and a new road will increase surface runoff during rain and melting snow events, increasing the potential of flooding. It will also reduce the water entering the aquifer as larger portions will runoff as surface water rather than slowly permeate into the ground. The water that does make it into the aquifer will be tainted by chemicals used in the home and in landscape maintenance. Local wells have the potential of going dry or having their water quality reduced. Surface water including the ponds at Lee Metcalf NWR, Three-mile Creek and the Bitterroot River would all likely show an increase in nitrates and other nutrients. Surface water would be more subject to algal blooms with adverse impacts on local fish and wildlife along with a loss of aesthetic value. Again, cumulatively, with additional subdivisions in the area, these effects will be exacerbated and could cause adverse impacts to the fishing industry so important to the

Bitterroot. High density developments such as these should have a centralized water supply system, water treatment system¹ and planned drainage system to mitigate some of these impacts.

Another issue is loss of open space in our community. Quality of life in the Bitterroot Valley is based in a large part on open space. This proposed subdivision would reduce the quality of life with increased noise, traffic and light pollution and a reduction in scenic value.

5 – Effects on Wildlife and Wildlife Habitat

This area is currently used by a wide array of wildlife. Deer, coyotes and numerous species of birds such as meadowlarks and vesper sparrows use this property. It has been used by goose hunters over the years and just last week, we noted a flock of geese grazing this property. The wildlife value of Lee Metcalf NWR is augmented by use of nearby lands for habitat, especially for geese. Loss of these habitats will reduce the carrying capacity of the Refuge to wildlife species and reduce the wildlife seen in the valley.

As a wildlife biologist I disagree with the environmental assessment statement that said this is not big game wintering range. The proposed subdivision is used as white-tailed deer winter range and even a cow moose and calf have been seen on the property by my neighbors.

6 – Effects on Public Health and Safety

This proposed subdivision would create another road less than 700 feet from the intersection of Ambrose Creek Road and the Eastside Highway. We have witnessed numerous accidents at this intersection over the years and expect that this intersection is one of the more dangerous ones in the valley. An additional neighborhood road into this area will likely increase the already high potential for accidents, increasing the risk of personal injury or death and increasing the workload of emergency service workers and volunteers

In summary, we feel this level of development is not appropriate so close to the Lee Metcalf National Wildlife Refuge and the Bitterroot River. This development would cause adverse impacts to the river, the refuge and nearby properties. This land is more appropriately suited for agriculture or open space. If this land must be subdivided, a five or ten acre minimum would have far less impacts.

Sincerely,

/s/ Pat Sweeney

/s/ Sharon Sweeney

Pat and Sharon Sweeney
431 Fawn Lane
Stevensville, MT 59870

¹ Please see Septic System Impact on Surface Waters, a Review for the Inland Northwest
http://www.tristatecouncil.org/pages/septic_impacts_report_2005.pdf